1945. **File No.** O. Hand-Printers Licensing Order /45

Legal Deptt

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Subject:— Opinions under the Bombay Printers Licensing Order 1944.

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O Hand-Printers Licensing Order /45

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Legal Department File No. O. Hand Printers Licensing Order/ 45

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		Opinions under the Bombay Hand Printers Licensing Order, 1944	
1	O.No. 4650 21-4-1945	Clause 13(1) Whether exporter is a dealer, whether the order can be ~~amended~~ amended to cover exporters. Whether clause 13(1) of the order applies to export -ers.	1-2

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Office of the R.L.A.

Under the Bombay Hand-printers Licensing Order, 1944, certain dealers have asked for permits for hand-printing certain cloth which they are going to export. The questions referred to the R.L.A. foropinion are:-

(1) Whether an exporter is a "dealer" under the Hand-printing Order:

(2) Whether the Order can be amended to cover exporters:

(3) Whether clause 13(1) of the Order applies to exporters.

Question (1) If the persons concerned are dealers apart from their export business and their export business does not comprise the whole of their business then the exporters will be dealers under the Order and must obtain a license. If, however, the persons concerned are not dealers apart from their export business then it is doubtful whether they fall within the definition of "dealer" in the Order and it would be safest to conclude that they will not.

Question 2 and 3. However, even if exporters are not dealers still clause 13(1) of the Order applies to them"..,..... no person other than the holder of a license issued under this Order shall order printing of cloth etc." It has been argued that the application of this Order to exportrs would mean a restriction on export trade and would therefore be contrary to the first proviso to rule 81(2) of the Defence of India Rules. That proviso states that no order made, whether before, on or after the 18th May, 1943, in exercise of the powers conferred by clause (a) of this sub-rule on a Provincial Government shall have effect so as to prohibit or restrict the export from any place in the Province to any place outside India of articles or things. Therefore, it is argued that the Order if it

applies to exporters into that extent void and further it cannot be amended so as to apply to them. In this case there is no restriction. so far as the Hand-printing Order is concerned, on the exporters exporting cloth before it is printed or exporting it after it is printed. The only restriction is that they shall not have the cloth hand-printed in Bombay without obtaining permission under clause 13(1) of the Order. The exporters in this case want to export hand-printed cloth. The articles are not yet fully finished. There is still one stage in their manufactures namely, hand-printing. Provincial central of this stage of manufacture may finally result in a restriction of export trade. But so may control of any stage in the manufacture of goods. For example, a provincial control commovement and prices of coal might will affect production of a mill manufacturing cloth to export and/ in consequence might restrict the export trade of exporters of cloth. But it would be absurdto bring such a restriction within the scope of the above proviso of rule 81(2). In essence there is no distinction between the control of the first stage of manufacture and control of the last state of manufacture so far as that proviso is concerned. This type of restriction cannot be taken as restriction export trade within the meaning of "restrict" in the above proviso. The result is that clause 13(1) of the Order does apply to exporters and further the Order can be amended todeal specifically with exporters if it will administratively be inconvenient to apply clause 13(1) to them.

This opinion on the scope of the first proviso to rule 81(2) of the Defence of India Rules is not inconsistent with R.L.A.'s opinion No. 5161 dated 21st July 1944. That case is distinguishable on facts.

Id./ P.M.M. 25/6/46

Remembrancer of Legal Affairs.

U.R. to F.D.(Supply), No. 4650, dated 21st June 1945.

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